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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,578	01/25/2002	Jorg Muller-Ziller	SWR-0076	4690

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EXAMINER

KASTLER, SCOTT R

ART UNIT

PAPER NUMBER

1742

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,578

Applicant(s)

MULLER-ZILLER ET AL.

Examiner

Scott Kastler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-20 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

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Claim Objections

Claim 20 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The above claim does not fairly further limit independent apparatus claim 1 because it has been well settled that the manner or method of use of an apparatus cannot be relied upon to fairly further limit claims to the apparatus itself. See *In re Casey*, 152 USPQ 235 and MPEP 2114. In the instant case, the temperature to which the heat treatment chamber is heated is a limitation dealing with the manner or method of use of the claimed apparatus, and cannot be relied upon to fairly further limit claims to the apparatus itself.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, and 5-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hisada et al. Hisada et al teaches an arrangement and method for the transporting of metallic workpieces during heat treatment (see col. 1 lines 5-20 for example) by automatic guided vehicles (32, 33) where each automatic guided vehicle is described as employing a heat insulated transport chamber for holding workpieces (36) which is heated (see col. 10 lines 5-10 where it is stated that chamber (36) can be equipped with a heater) including transport gear for moving the

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chamber (35) where the transport chamber can be moved horizontally, or could rotate (turn in circles) in place (through movement on the wheels (34); is designed to be vacuum tight and can be evacuated of air separate of any treatment chamber(see col. 5, lines 55-65 where a vacuum exhaust system, or vacuum pump (37) is attached to the chamber (36)). The doors (45a, 45b) are hermetically sealable loading and connecting doors operated by drive cylinders (44a and 44b). The transport chamber also includes a horizontal batch loading and unloading device (39, 40 and 41a) . The transport chamber (36) is movable relative to the transport gear (35) via rollers (55) in a horizontal direction (see figure 5 for example) along a delivery track (3) which "could" be controlled freely via induction loops embedded in the transport gear base (instant claim 10 does not require that the transport gear actually be equipped with induction loops, but by using the term "can be" requires only that the transport gear have the ability to be equipped with such a drive device). The vehicles (32,33) deliver workpieces between two horizontally disposed treatment chambers (6-23) as described at col. 4 line 57 to col. 5 line 40 for example) by connecting to the treatment chambers in a stationary manner (instant claims 11-18 do not require that the transfer canal/transport chamber (36) be connected to two separate treatment chambers simultaneously) where the workpieces are transported from one treatment chamber to another treatment chamber without any significant drop in temperature, thereby showing all aspects of the above claims.

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Allowable Subject Matter

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed on 6-26-2003 with respect to the Hisada et al reference have been fully considered but they are not persuasive. Applicant's argument that Hisada et al does not teach heating the transport chamber (36) is not persuasive because Hisada et al teaches this feature at col. 10 lines 5-10 for example.

Applicant's arguments, see pages 5 and 6, filed on 6-26-2003, with respect to the rejections over French'156 have been fully considered and are persuasive. The rejections of claims 1, 2, 5-8, 10-13 and 16-18 over French'156 has been withdrawn.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

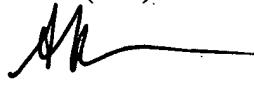
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (703) 308-2506. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (703) 308-3050. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.



Scott Kastler
Primary Examiner
Art Unit 1742

sk
August 11, 2003